

REMARKS

This amendment is being filed along with a Request for Continued Examination (RCE) in response to the final Office Action having a mailing date of May 11, 2006 and in response to the Advisory Action having a mailing date of July 21, 2006. Claims 17, 19, and 23 are amended as shown. New claim 33 is added. No new matter has been added. Claims 1-13, 16, and 22 were previously canceled without prejudice. With this amendment, claims 14-15, 17-21, and 23-33 are pending in the application.

I. Discussion of the cited references

In the final Office Action, claims 14-15, 17-21, and 23-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leon (U.S. Patent No. 6,701,304). Specifically, the alternative embodiment of a tax stamp mentioned in Leon was cited against the claims in the present application. It is respectfully submitted that these rejections are overcome in view of the recitations in the claims above and the arguments below.

a. Leon's tax stamp does not include manufacturer and product type identifiers

Column 6, lines 35-38 of Leon only briefly mention an alternative embodiment of a printer that is capable of printing a "tax stamp." That is the extent of Leon's disclosure--Leon provides no further details as to the type of information that such a tax stamp would contain. It is clear therefore that Leon has not disclosed, taught, or suggested that his tax stamp would be any different than a conventional tax stamp (*i.e.*, a tax stamp that can only store limited information). For example and as stated on page 1, lines 24-26 of the present application, conventional tax stamps provide little information, and do not identify the manufacturer of the goods or the specific good being sold. There is nothing in Leon to indicate that his alternative embodiment directed towards a tax stamp would provide such manufacturer and product information.

Indeed, the final Office Action admitted on page 2 that Leon does not show the feature of "specifying tax information on the data structure" (emphasis ours). Furthermore on page 3, the final Office Action stated that "Leon is silent as to what information would be on the

machine-readable portions of the alternative embodiments of the ... tax stamp ..." (emphasis ours).

b. No motivation to modify Leon's postage label and tax stamp to include manufacturer and product type identifiers

The primary embodiment of Leon, directed towards a postage label, also does not provide any motivation or suggestion that can be used by a person skilled in the art to modify Leon's tax stamp to include manufacturer and product information. Leon discloses a postage label that includes human-readable and machine-readable data elements. *See, e.g.*, Figure 4 of Leon. The machine-readable element(s) is in the form of indicia that indicates that postage has been paid by the user/sender. The printed indicium of Leon merely indicates that revenue for the postage has been paid--the indicium of Leon does not provide much more information. For example, the indicium of Leon may include an identifier (column 8, lines 5 and 18-23) such as "fluorescent strips, marks such as watermarks, micro printing, imprints using special ink and/or taggants," or may include other data elements listed in Table 1 (column 11, lines 35-58) such as date of mailing, originating address, postage, and so forth.

Clearly, the postage label of Leon does not provide manufacturer and product type identifiers, and there is no motivation or suggestion to modify his postage label to provide such information. Such a modification would be contrary to the principles of a modern postal system.

For example, when senders send a package in the mail, such senders expect the contents of the mailing package to be confidential or otherwise not readily determinable while en route through the postal system. Including information in the indicium of Leon to indicate the type of product contained inside the mailing package and the identity of the manufacturer of the product would remove that confidentiality and would erode the public's confidence in the security of the postal system.

Mailing packages typically identify the sender of the package, but do not identify the manufacturer of the product contained in the package and further do not identify the type of product contained in the package. Such precautions are taken to deter theft, for example, or to

preserve the possibly confidential nature of the items contained in the package. If the manufacturer of the products is the “sender” of the package, the manufacturer’s identity may be indicated in the return label/address on the outside of the package, but the contents of the package (e.g., the type of product contained in the package) would not be identified on the exterior of the package, due to security, confidentiality, or other issues.

Further, there would be no motivation or suggestion to extend the principles of postal system packaging to tax stamps. These are two completely different areas of knowledge, which a person skilled in the art would not think to combine.

c. Circular 17 does not provide manufacturer and product type identifiers in a data structure that stores tax information

To supply the missing teachings of Leon, the final Office Action has cited Inspection Circular 17 from the Kansas State Agricultural College (hereinafter “Circular 17”). According to the final Office Action, Circular 17 “requires remedies to be registered, labeled and show a payment of tax (tax stamp). Page 5 shows required information. Item 1a requires a manufacturer identifier and item 1d requires a product type identifier. This information is necessary to show compliance with the law.” In short, the final Office Action has cited Circular 17 as disclosing the specific manufacturer and product type identifiers that would be stored by the data structure.

However, it is respectfully submitted that Circular 17 does not disclose, teach, or suggest that the manufacturer and product type identifiers are stored in the same data structure along with the tax information. Rather, the manufacturer and product type identifiers are stored in a “label,” while the tax information is present on a “stamp or tag” that is different and separate from the “label.”

To recap, Circular 17 elaborates on the requirements for providing remedies for livestock under the Kansas Livestock Remedy Law. A purpose of this law is to give a person sufficient information to form an intelligent opinion as to the value of a particular remedy. Thus, Circular 17 states in the last paragraph on page 2 that “All remedies advertised or recommended for internal administration to any animal except man, must be registered, labeled, and show

payment of the livestock remedy tax by a stamp or tag affixed to the outside of the package" (emphasis ours). It is believed that the final Office Action has erroneously interpreted this highlighted phrase to mean that the information relating to the three components of "registration," "labeling," and "payment" are all collectively contained within the same physical aforementioned "stamp or tag," such that the above-phrase is interpreted as "must be ... labeled by a stamp or tag affixed to the outside of the package." The applicant submits that this is not the case. That is, the aforementioned "stamp or tag" only relates to the "payment" of the livestock remedy tax, and does not relate to the separate and distinct "label" (or to the contents of the label)—the "label" of Circular 17 is a completely different physical document than the "stamp or tag."

Pages 5-6 of Circular 17 detail the requirements for "labeling." Specifically, certain information regarding the remedy is required by Item 2 to be either "printed on the carton enclosing the remedy or on a label affixed thereto" (emphasis ours). There is nothing disclosed, taught, or suggested in Circular 17 that the name of the manufacturer of the remedy and the ingredients of the remedy (Items 1a and 1d, respectively) are to be placed in a "tax stamp" or in a "tax tag." Item 2 of Circular 17 clearly specifies that such information is to be printed on the carton or on a "label"—not on a "tax stamp" or "tax tag."

Page 6 (under the subheading "Tax Stamps or Tags") of Circular 17 states "The payment of this tax must be shown by a stamp or tag on the outside of each package stating that the tax has been paid" (emphasis ours). The present applicant respectfully notes that this passage uses the terms "stamp or tag" (rather than "label") when referring to the "payment"—this passage does not say "payment of this tax must be shown on the label" and/or does not say "the label information must be shown in the tax stamp or tag."

Clearly, the "label" is separate and distinct from the "tax stamp" (or "tax tag") of Circular 17. The label includes manufacturer and product information, while the tax stamp (or tax tag) separately contains verification that the tax has been paid. All of this information is not physically present in the same paper/document/stamp.

Item 5 on pages 6-7 of Circular 17 provides further details on the "tax stamps and tags." In particular, Item 5 lists the price for bulk quantities of gummed stamps and tags,

depending on the particular weight of the remedy. Since these tax stamps and tags are sold in bulk, it is clear that such tax stamps and tags are not and cannot be customized such that specific manufacturer and product details are printed in the stamps and tags before they are sold. Making such customized pre-printed gummed tax stamps and tags would be impractical for bulk sales, in terms of printing, sorting, inventory maintenance, dispensing, etc. Pre-printing manufacturer and product information on these paper tax stamps and tags is analogous to the U.S. Post Office pre-printing specific sender/receiver names and package content information on bulk sheets/rolls of postage stamps that are to be sold to the public—this simply is impractical and is not done.

d. Tuttle also does not disclose, teach, or suggest manufacturer and product type identifiers

Tuttle discloses an RFID device that can be placed on a postage stamp or postage label, so as to facilitate the sorting of mail. For example, the information in the RFID device is read by mail sorting devices, so that the item being mailed can be properly routed to the next destination(s) along the shipping route. *See, e.g., column 6, lines 14-28 of Tuttle.* The final Office Action has cited a memory 86 in the RFID device of Tuttle as containing “owner’s name, ID number, point of origin (origin identifier), weight, size, route, and destination. *See, e.g., column 6, lines 19-21 of Tuttle.*

It is respectfully submitted that the “owner name” of Tuttle cannot be likened to a “manufacturer identifier,” and that the “ID number” of Tuttle cannot be likened to “product type identifier.” As with Leon, Tuttle is also directed towards a postal application, or more specifically, an RFID device attached to a postage stamp so as to facilitate mail sorting. Therefore, as explained previously above with regards to Leon, the RFID device of Tuttle cannot be expected to provide information other than that required for properly sorting the package through the postal system. The “owner name” in Tuttle is thus either the sender or the receiver for the package, and his “ID number” is some sort of identifier to specifically identify the particular mailing package for sorting and routing purposes—the specific identity of the product contained in that mailing package and the manufacturer of that product is not and cannot be provided in the postal system of Tuttle.

Further, there is nothing disclosed, taught, or suggested in Tuttle that his memory 86 can be modified to include a product type identifier and a manufacturer identifier, along with tax information. A person skilled in the art would not provide the identifiers of the manufacturer and of the product (contained inside of a mailing package) in the RFID postage stamp or mailing label of Tuttle, due to privacy concerns and/or due to other practical considerations.

II. Discussion of the claims

It is respectfully submitted that independent claim 17 in its previous form contained limitations that distinguished over the cited references. For example, claim 17 recited, *inter alia*, “A machine readable structure, comprising: a data structure storing tax information concerning a taxable item … the tax information including a tax payment condition indicator … wherein the data structure stores a product type identifier and a manufacturer identifier associated with the taxable item.” This recitation makes it clear that the claimed data structure stores tax information, a product type identifier, and a manufacturer identifier.

As explained above, Circular 17 does not provide such a data structure. The “label” of Circular 17 contains manufacturer and product information, but does not contain tax information. The “tax stamp or tag” of Circular 17 contains tax information, but does not contain manufacturer and product information. Accordingly, since Circular 17 does not supply the missing teachings of Leon, claim 17 was believed to be allowable over the cited references, whether singly or in combination.

However, to facilitate prosecution, claim 17 is amended herein to recite “wherein the data structure also stores a product type identifier and a manufacturer identifier associated with the taxable item, along with the tax information.” This amendment provides further explicit clarification that the claimed data structure stores tax information, a product type identifier, and a manufacturer identifier. As explained above, Circular 17 provides a “stamp or tag” for tax information—Circular 17’s “stamp or tag” does not “also” store a product type identifier and a manufacturer identifier as recited in amended claim 17. Circular 17 specifies the use of a separate and different “label” for manufacturer and product information, and this “label” does not provide this information “along with the tax information” as recited in amended claim 17.

The references of Leon and/or Tuttle do not meet the limitations of claim 17. As explained above, nothing is disclosed, taught, or suggested in Leon that his tax stamp and/or postage label stores a product type identifier and a manufacturer identifier along with the tax information. Tuttle simply relates to an RFID for postal use. Accordingly, claim 17 is further allowable over the cited references, whether singly or in combination.

It is respectfully submitted that independent claim 23 in its previous form was also allowable over the cited references. Claim 23 recited, *inter alia*, “A computer-readable memory, comprising: a data structure having a number of records, each of the records ... storing a tax payment condition indicator ... wherein the records further store a product type identifier and a manufacturer identifier associated with the taxable item. This recitation makes it clear that the claimed data structure has records that store a tax payment condition indicator, a product type identifier, and a manufacturer identifier.

However and again to facilitate prosecution, claim 23 is amended to recite “wherein same said data structure further has records that store a product type identifier and a manufacturer identifier associated with the taxable item.” None of the cited references, whether singly or in combination, provides the same data structure having records that store a tax payment condition indicator and a product type identifier and a manufacturer identifier. Thus, claim 23 is further allowable.

III. New claim

New dependent claim 33 recites “wherein said product type identifier, manufacturer identifier, and tax information that are stored by the data structure can all be read from the data structure and verified by a computer.” These limitations cannot be met by the cited references, whether singly or in combination. In Circular 17, since the “label” and “stamp or tag” are different physical documents, their information cannot be “stored by the data structure” and cannot be “all read from the data structure” as recited in claim 33. Leon and Tuttle do not provide data structure that store and from which to read “all” the product type identifier, manufacturer identifier, and tax information. Thus, claim 33 is allowable.

IV. Conclusion

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, the independent claims are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 622-4900.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
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